

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

CAUSE NO. 1:04CR94-LG-JMR-1

DEBORAH ANN KENNEDY

**ORDER DENYING MOTION FOR
DISMISSAL OF GUN ENHANCEMENT**

BEFORE THE COURT is the Motion for Dismissal of Gun Enhancement [167] filed by Deborah Ann Kennedy. In her Motion, Kennedy asks the Court to reduce her sentence by removing the gun enhancement. She claims that she has never owned a gun or had one in her possession. She also claims that she will not be entitled to benefit from the recent revised base offense levels for drugs if the gun enhancement is not removed from her sentence.

This Court's jurisdiction to correct or modify a defendant's sentence is limited to the following circumstances enumerated by Congress in 18 U.S.C. §3582(c): (1) if the Director of the Bureau of Prisons moves for a reduction due to extraordinary and compelling reasons or the age of the defendant; (2) if a statute or Fed. R. Crim. P. 35 expressly permits a reduction; or (3) if the defendant has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o). Furthermore, Fed. R. Crim. P. 35 provides that the court may correct a sentence that resulted from arithmetical, technical, or other clear error within fourteen days after sentencing. It also permits the court to reduce a sentence upon the

Government's motion if the defendant provided substantial assistance in investigating or prosecuting another person. Fed. R. Crim. P. 35.

None of these circumstances exist with regard to Kennedy's present Motion. Therefore, the Court does not have jurisdiction to amend the defendant's sentence by removing the gun enhancement.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion for Dismissal of Gun Enhancement [167] filed by Deborah Ann Kennedy is **DENIED**.

SO ORDERED AND ADJUDGED this the 15th day of September, 2014.

s/ *Louis Guirola, Jr.*

Louis Guirola, Jr.
Chief United States District Judge